

EXHIBIT C



Stonecrest Claims Branch

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March 27, 2023

DAVID P NICHOLS
2700 OGLESBY BRIDGE RD SW
CONYERS, GA 30094-4244

CERTIFIED AND REGULAR MAIL - RETURN RECEIPT REQUESTED

RE:	Claim Number:	300-0172709-2021
	Insured:	DAVID P NICHOLS, DBA NICHOLS NURSERY COMPANY
	Policy Number:	80456297
	Date of Loss:	04/07/2021

RESERVATION OF RIGHTS

Dear David Nichols,

With respect to the above described loss which has been reported to have occurred 04/07/2021 you are formally advised that Owners Insurance Company reserves all rights and defenses which it has in connection with Commercial General Liability policy number 80456297. This is to inform you that Owners Insurance Company is investigating this claim under a reservation of rights.

We are reserving our rights to disclaim at any later date any obligation of Owners Insurance Company under the policy aforescribed and to assert the defense of non-coverage under the policy by reason of the following:

It is our understanding that Bahati Stewart was traveling on Oglesby Bridge Rd SW, just before the South River Bridge, in Conyers, Georgia when she struck a cow in the roadway. The blue Nissan Maxima she was driving sustained property damages and she allegedly sustained bodily injury.

Owners Insurance Company has been made aware of a lawsuit filed by Bahati Stewart against Julie and David Nichols in the State Court of Rockdale County, Georgia, civil action 2023-SV-1141 ("Lawsuit"). We have identified questions about whether your policy provides coverage for the claims asserted or the relief sought in the Lawsuit. We will, however, provide a defense to you and/or the company in which you are contractually obligated.

We refer you to the Commercial General Liability policy form CG0001 (04-13), which reads:

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COMMERCIAL GENERAL LIABILITY COVERAGE FORM

*Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered. Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance. The word "insured" means any person or organization qualifying as such under Section **II** – Who Is An Insured. Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.*

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:*

- (1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and*
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.*

*No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B**.*

- b. This insurance applies to "bodily injury" and "property damage" only if:*
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";*
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and*
 - (3) Prior to the policy period, no insured listed under Paragraph **1.** of Section **II** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.*
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to*

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give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. Of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury"

SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

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- b. If a claim is made or "suit" is brought against any insured, you must:*
- (1) Immediately record the specifics of the claim or "suit" and the date received; and*
 - (2) Notify us as soon as practicable.*

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:*
- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";*
 - (2) Authorize us to obtain records and other information;*
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and*
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.*
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.*

We now refer you to your policy CG0001 (4-13) for specific definitions:

SECTION V – DEFINITIONS

- 3. "Bodily injury" means bodily injury, sickness or dis- ease sustained by a person, including death resulting from any of these at any time.*
- 13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.*
- 17. "Property damage" means:*
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or*
 - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it. For the purposes of this insurance, electronic data is not tangible property. As used in this definition, electronic data means in- formation, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.*
- 18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:*
- a. An arbitration proceeding in which such dam- ages are claimed and to which the insured must submit or does submit with our consent; or*

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- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.*

In other words, there may not be any coverage for an “occurrence” as defined by the policy. Additionally, David P Nichols, dba, Nichols Nursery Company, and Julie Nichols may not fall under the definition of an “insured” under the policy for conduct that falls outside of conduct of a business of which David Nichols is the sole owner.

At this time, we are still investigating this claim under a reservation of rights. You are formally placed on notice that any activity on our part by way of investigation and/or settlement which we may undertake, or any defense, which we may undertake in your behalf, arising out of legal action or actions instituted against you, does not constitute a waiver of any our rights. You should not discuss this claim with anyone except an Owners Insurance Company representative or your personal attorney.

Please note, we have assigned Christina Gulas with Bovis, Kyle, Burch & Medlin, LLC as defense for this claim.

You are hereby notified that Owners Insurance Company reserves the right to litigate the coverage issues outlined herein and reserves its rights to file a declaratory judgment action in a court of appropriate jurisdiction, if necessary

If there is any additional information you believe to be relevant to the question of coverage, or if you believe that any of the facts or information stated, upon which Owners Insurance Company has relied, is not accurate, please advise.

Please be advised that this letter does not waive any rights or defenses which Owners Insurance Company may have regarding this matter under any policy of insurance issued by Owners Insurance Company, whether or not such claims or defenses are set forth herein. Owners Insurance Company reserves the right to supplement this Reservation of Rights upon receipt of further information which may subsequently become available per our investigation.

All rights, terms, conditions, and exclusions in your policy are in full force and effect and are completely reserved. No action by any employee, agent, attorney or other person on behalf of Owners Insurance Company; or hired by Owners Insurance Company; shall waive or be construed as having waived any right, term, condition, exclusion or any other provision of the policy.

Sincerely,



Cole Walters
Field Claim Representative
Stonecrest Claims Branch